

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Jerry William Nelson, #269049,	)	
	)	
Plaintiff,	)	C.A. No. 6:05-2659-HMH-WMC
	)	
vs.	)	<b>OPINION &amp; ORDER</b>
	)	
Brenda Myers, 101 Pine Loop Rd,	)	
Kingstree, S.C 29556,	)	
	)	
Defendant.	)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge William M. Catoe, made in accordance with 28 U.S.C. § 636(b)(1) and Local Rule 73.02 DSC.<sup>1</sup> Jerry William Nelson (“Nelson”), a state prisoner proceeding pro se, filed a civil rights action under 42 U.S.C. § 1983. In his Report entered January 5, 2006, Magistrate Judge Catoe recommends dismissing Nelson’s complaint without prejudice and without issuance and service of process and deeming this action a “strike” for purposes of the “three strikes” rule of 28 U.S.C. § 1915(g).

Nelson filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation

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<sup>1</sup>The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Nelson filed numerous letters with the Clerk of Court after the Magistrate Judge entered his Report and Recommendation. Nelson has a second action pending before the court, C.A. No. 6:05-2660, and the letters are ambiguous as to which action they pertain. Out of an abundance of caution, the court reviewed all of Nelson's letters received after the Report and Recommendation was filed.

Upon review, the court finds that Nelson has failed to object to the Magistrate Judge's conclusion that the court lacks jurisdiction to hear the instant case, that the Defendant has absolute immunity, or that the action should be deemed a strike under § 1915(g). However, Nelson appears to object to the Magistrate Judge's conclusion that the instant action should also be dismissed due to Nelson's failure to comply with the Magistrate Judge's order of October 4, 2005 ("October Order"), requiring Nelson to submit particular service-related documents and answer special interrogatories. In a letter filed January 19, 2006, Nelson essentially argues that he tried to comply with the October Order. However, regardless of Nelson's best efforts, Nelson does not assert that he has fully complied with the October Order or that he was somehow prevented from doing so, other than suggesting that he needs help complying with the October Order and the court has failed to provide him with an attorney to assist him. Ultimately, Nelson has failed to specifically object to the Magistrate Judge's Report and Recommendation. Therefore, after a thorough review of the Magistrate

Judge's Report and the record in this case, the court adopts Magistrate Judge Catoe's Report and Recommendation.

It is therefore

**ORDERED** that Nelson's complaint is dismissed without prejudice and without issuance and service of process. It is further

**ORDERED** that Nelson's action is deemed a "strike" for purposes of the "three strike" rule as set forth in 28 U.S.C. § 1915(g).

**IT IS SO ORDERED.**

s/ Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
February 1, 2006

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.